

Amendment No. 2 to SB1602

Gresham
Signature of Sponsor

AMEND Senate Bill No. 1602*

House Bill No. 2249

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-29-235(a), is amended by deleting subdivision (47) in its entirety.

SECTION 2. Tennessee Code Annotated, Section 4-29-238(a), is amended by adding the following language as a new, appropriately designated subdivision:

() State textbook and instructional materials commission, created by § 49-6-2201;

SECTION 3. Tennessee Code Annotated, Section 49-6-2201, is amended by deleting the section in its entirety and by substituting instead the following:

49-6-2201.

(a)

(1) There is created a state textbook and instructional materials commission composed of ten (10) members, nine (9) of whom shall be appointed as follows:

(A) The speaker of the senate shall appoint one (1) member from each grand division of the state;

(B) The speaker of the house of representatives shall appoint one (1) member from each grand division of the state; and

(C) The governor shall appoint one (1) member from each grand division of the state.

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(2) The commissioner of education shall be an ex officio secretary of the commission, with the right to vote, and shall serve without additional compensation for such service.

(b)

(1) One (1) member of the commission shall be appointed from each of the following groups:

(A) County directors of schools;

(B) City directors of schools;

(C) School principals;

(D) Teachers and instructional supervisors in the lower grades, grades kindergarten through three (K-3);

(E) Teachers and instructional supervisors in the intermediate grades, grades four through eight (4-8); and

(F) Teachers or instructional supervisors in the upper grade subjects, grades nine through twelve (9-12).

(2) The three (3) remaining members shall be citizens of this state who are not employed in the public K-12 educational system but who are knowledgeable of education issues in this state. These three (3) members shall reside in different grand divisions.

(c) The appointing authorities shall consult with each other prior to appointing any member to the commission to ensure that appointments are made in accordance with subsection (a).

(d)

(1) Except as otherwise provided in this subsection, each member, prior to beginning a term of office, shall be confirmed by joint resolution of the general assembly upon the recommendation of the education committees of the senate and the house of representatives.

(2) If the general assembly is not in session at the time a member is appointed to fill a vacancy resulting from the expiration of a term, the member of the commission whose term has expired shall serve until a new appointee is confirmed as provided in subdivision (d)(1).

(3) If the general assembly is not in session at the time a member is appointed to fill a vacancy not resulting from the expiration of a term, the new appointee shall serve for the term appointed unless such appointment is not confirmed within sixty (60) calendar days after the general assembly next convenes in regular session following such appointment.

(4) If the general assembly is not in session when initial appointments are made, all initial appointments shall serve the terms prescribed pursuant to subdivision (f)(2), unless such appointments are not confirmed within sixty (60) calendar days after the general assembly next convenes in regular session following such appointments.

(e) Except as provided in subsection (f), the terms of the members of the commission shall be three (3) years.

(f)

(1) The entire membership of the commission as comprised on December 31, 2014, shall be vacated on January 1, 2015, and new members shall be appointed in accordance with subsection (a).

(2) In order to stagger the terms of the newly appointed commission members, initial appointments shall be made as follows:

(A) Each of the three (3) appointing authorities shall make an initial appointment for a term of one (1) year, which shall expire on December 31, 2015;

(B) Each of the three (3) appointing authorities shall make an initial appointment for a term of two (2) years, which shall expire on December 31, 2016; and

(C) Each of the three (3) appointing authorities shall make an initial appointment for a term of three (3) years, which shall expire on December 31, 2017.

(g)

(1) Following the expiration of members' initial terms as prescribed in subdivision (f)(2), all three-year terms shall begin on January 1 and terminate on December 31, three (3) years thereafter.

(2) All members shall serve until the expiration of the term to which they were appointed and until their successors are appointed and qualified.

(3) A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

(4) Successors shall be appointed from the same grand divisions of the state in which the members they are replacing reside.

(5) Members shall be eligible for reappointment to the commission following the expiration of their terms, but shall serve no more than two (2) consecutive three-year terms.

(h) At the first regular meeting in each calendar year, the members of the commission shall elect a chair for one (1) year.

(i)

(1) Before members of the commission begin to discharge their duties, they shall take and subscribe to the following oath: "I do hereby declare that I am not now directly or indirectly financially interested in, or employed by, any textbook or instructional materials publisher or agency, and that I will not become directly or indirectly financially interested in any of the proposed contracts, nor in any book, nor in any publishing concern handling or offering any books or other publications to the commission, of which I am a member, for listing and adoption, and I do hereby promise that I will act honestly, faithfully and

conscientiously, and in all respects will discharge my duty as a member of this commission to the best of my skill and ability.”

(2) A violation of the oath taken pursuant to subdivision (i)(1) as determined by the state board of education, in consultation with the commission, shall be grounds for the removal of a member by the respective appointing authority. A violation of the oath taken pursuant to subdivision (i)(1) may subject the commission member to criminal prosecution.

(j) The department of education shall assist the commission by providing mandatory training to newly appointed members on the textbook and instructional materials review process and the completion of their assigned tasks, including, but not limited to, the following:

(1) The delivery of quality textbook and instructional materials programs to the LEAs of the state, as fulfilled through the development of rules for the bidding and contracting of textbook and instructional materials programs;

(2) The adoption of physical standards and specifications that assure suitable durability of the textbooks, instructional materials and supplemental materials;

(3) The review of programs bid against the curriculum standards approved by the state board of education;

(4) The establishment of contracts that guarantee the availability of adopted programs to all LEAs at the lowest price; such programs are available anywhere in the nation;

(5) The authority, responsibility and duties of the commission, which shall include a review of the statutes and rules

that govern the commission and the textbook and instructional materials review process;

(6) The time frame for the textbook and instructional materials review process;

(7) The process of appointing members to the advisory panels and expectations of the members of the panels;

(8) The First Amendment to the United States Constitution as it applies to the textbook and instructional materials adoption process;

(9) The goals of the textbook and instructional materials book review process. No textbook or any instructional materials shall be approved by the commission for adoption by LEAs unless the book:

(A) Conforms to the standards for its subject area or grade level;

(B) Is free of any clear, substantive, factual or grammatical error;

(C) Is free from any biases in its viewpoints; and

(D) Reflects the values of the citizens of this state as manifested in the United States Constitution, the Constitution of Tennessee and other foundational documents of this nation's republican form of government.

(k)

(1) No member of the commission shall receive any gift, reward, present or emolument from any author, publisher or

distributor of a book or books, except copies of books offered for listing and adoption.

(2) No member or employee of the commission shall accept any employment as agent, attorney, subagent, employee or representative of any author, publisher or distributor of textbooks or instructional materials during the person's term of service on the commission, nor within twelve (12) months after the expiration of the person's term of office.

(3)

(A) No author, publisher, agent, attorney, employee or representative of any author, publisher or distributor shall give any present, reward, gift or emolument to any member of the commission, nor make any offer of employment to a member of the commission during the member's term of service, whereby the member is to become the agent, employee, attorney or representative of the author or publisher.

(B) Any contract, expressed or implied, made by any person, firm, or corporation in violation of subdivision (k)(3)(A) is declared to be illegal and void and no recovery thereon shall be had.

(4) A commission member who knowingly violates subdivision (k)(1) or (2) may be subject to criminal prosecution;

(l) Members of the commission shall not be compensated for their services but may be reimbursed for travel expenses in accordance with the comprehensive travel regulations promulgated by the commissioner

of finance and administration and approved by the attorney general and reporter.

(m)

(1) Eight (8) members of the commission shall constitute a quorum for the purpose of meeting and conducting business.

(2) No action of the commission shall be valid unless authorized by the affirmative vote of a majority of the members of the commission.

(3) The commission shall have two (2) regular meetings each school year to be held on the dates determined and announced by the commission. Notice of each regular meeting of the commission shall be posted on the department's website within three (3) full business days of the setting of the meeting dates.

(4) The commission may have as many special meetings as it deems necessary; provided, that in no case shall any member or members of this commission receive traveling expenses for more than three (3) special meetings in one (1) school year.

(5) Public notice of the call for the special meetings shall be made by the secretary of the commission at least ten (10) business days in advance of the date set for the special meeting and shall be posted within one (1) full business day of the call.

(6) All meetings shall be held in the office of the commissioner of education or at such place as designated by the commission.

(7) Meetings of the commission shall be made available for viewing by the public over the Internet by streaming video accessible from the web site of the department of education. Archived videos of the commission's meetings shall also be available to the public through the department's website.

(n)

(1)

(A) The commission, through its chair, may recruit and appoint an advisory panel of expert teachers and other experts in each subject area or grade level to advise the commission on book and instructional material selections.

(B) At least one (1) teacher shall be appointed to each advisory panel. Teachers appointed to the advisory panels shall possess a license to teach with an endorsement in the subject area or grade level for which they shall review books or instructional materials.

(C) Experts, who are not public school teachers, may include college professors and credentialed subject matter specialists.

(D) All members of advisory panels shall have a specific knowledge of and expertise in the content of the subject matter contained in the books or instructional materials they review.

(2) The department of education shall assist the commission by providing mandatory training to members of

advisory panel on the review process and the completion of their assigned tasks. The mandatory training shall include:

(A) The requirements for performing a thorough review of all textbooks or instructional materials assigned to a member for review. The review shall include an examination as to whether the textbooks or instructional materials:

(i) Conform to the standards for its subject area or grade level;

(ii) Are free of any clear, substantive, factual or grammatical errors;

(iii) Are free from any biases in their viewpoints; and

(iv) Reflect the values of the citizens of this state as manifested in the United States Constitution, the Constitution of Tennessee and other foundational documents of this nation's republican form of government; and

(B) The use of any forms developed by the commission for making a review; and

(C) The time frame for completing their tasks.

(3) The advisory panelists shall individually make their recommendations and shall not be convened except upon the call of the chair of the commission. If convened, the panelists may be reimbursed from funds available to the commission for travel expenses in accordance with the comprehensive travel regulations as promulgated by the

department of finance and administration and approved by the attorney general and reporter.

(4) The names of the reviewers, their positions, employers and the panels on which they serve shall be identified on the department's website. The reviews of the members of an advisory panel shall be posted on the department's website without any information that would identify the reviewers.

(5) Each textbook or any instructional materials proposed for approval shall be reviewed by multiple members of the panel.

(6) Before issuing a recommendation on a textbook or on instructional materials, each advisory panelist shall review the public comments on the textbook or instructional materials posted on department's website, pursuant to § 49-6-2203(d)(4). Each advisory panelist shall consider the public comments in making the panelist's recommendation.

(7) The commission shall evaluate all reviews submitted by the members of the advisory panel for each textbook or any instructional materials proposed for approval. The commission shall also review the public comments posted on the department's website, pursuant to § 49-6-2203(d)(4). If the reviews by the members of the advisory panel for a specific textbook or instructional materials do not lead to a clear recommendation as to the approval or rejection of the textbook or instructional materials or if the commission finds that the public comments indicate that further review of a textbook or any instructional materials is called for, then the commission shall conduct a public hearing as to whether the textbook or instructional materials should be approved.

Notice of the public hearing shall be prominently posted on the home page of the department's website at least thirty (30) days prior to the meeting of the commission at which the textbook or instructional materials are to be considered.

(8) The commission is authorized to promulgate rules and regulations for the recruitment and appointment of members to the advisory panels and the process by which the members review their assigned texts.

SECTION 4. Tennessee Code Annotated, Section 49-6-2202, is amended by redesignating subsection (d) as subsection (e) and by deleting subsections (a), (b) and (c) in their entireties and substituting instead:

(a) It is the duty of the commission to prepare a list of standard editions of textbooks and instructional materials for approval by the state board of education for use in the public schools of the state. The commission shall prepare a list of at least four (4) books or sets of instructional materials in each subject and grade for which textbooks or instructional materials are to be adopted, if four (4) or more textbooks or sets of instructional materials in that subject or grade are available and of sufficient merit to warrant being listed. The list shall be published in accordance with the rules, regulations, policies and procedures of the state publications committee. The proposed textbook and instructional materials list shall also be posted on the web site of the department of education.

(b)

(1) The commission has the authority to recommend to the state board of education which textbooks and instructional materials may be added to the list for adoption.

(2) The commission shall only recommend textbooks and instructional materials that reflect the values of the citizens of this state as manifested in the United States Constitution, the Constitution of Tennessee and other foundational documents of this nation's republican form of government.

(3) In recommending textbooks and instructional materials for use in social studies, Tennessee history, American history or any related subject, the commission shall strive to recommend textbooks and instructional materials that accurately and comprehensively portray the full range of diversity and achievement of racial and ethnic minorities as well as the role and importance of religion in history.

(c) A publisher submitting a textbook or instructional materials for possible approval shall execute an agreement:

(1) Ensuring the book's or the materials' accuracy;

(2) Certifying that the textbook or the instructional materials have been thoroughly examined and reviewed by qualified content experts for factual accuracy. The publisher shall also list the professional credentials for at least three (3) content review experts who have thoroughly examined the textbook or instructional materials for content accuracy;

(3) Certifying that the textbook or instructional materials have been thoroughly examined and reviewed by qualified editors for typographical errors and errors in grammar, written expression, spelling, formatting and other substantive elements that may affect student learning;

(4) Agreeing to correct all factual and editing errors found in a textbook or instructional materials, at the publisher's expense. The

publisher shall submit a corrective action plan to the department, for review and approval by the state board, within thirty (30) days of the department's notification of the existence of errors in the textbook or instructional materials;

(d) The commission shall not proceed with undue haste to accomplish the work of the commission, but, with the assistance of the state board and the department, shall establish appropriate deadlines for the review of textbooks and instructional materials by advisory panels and for its own review of textbooks and instructional materials. Upon the appropriate approval of the state board, the commission shall publish the list of textbooks and instructional materials that may be adopted by local boards of education for use in the schools of this state. The list shall contain the title of the textbooks and instructional materials listed for adoption, the names of the publishers and the prices at which the books and materials are available, as provided for in this chapter.

SECTION 5. Tennessee Code Annotated, Section 49-6-2203(d), is amended by deleting the subsection in its entirety and substituting instead the following:

(1) Copies of all textbooks and instructional materials bid shall be filed with the secretary of the commission on or before a date specified by the commission, but no later than the date of the start of the review by the advisory panels. A publisher shall not submit draft copies of textbooks, instructional materials or other supplemental materials. All textbooks, instructional materials and accompanying manuals, workbooks and other supplemental materials shall be submitted in finished form no later than the start of the review period. If a complete copy of any textbooks, instructional materials or any of their supplemental materials is not filed prior to the date specified by the commission, then the textbook or instructional materials shall not be considered for adoption.

The textbooks and instructional materials shall be accompanied by a list stating the edition, title and author of each textbook or any instructional materials offered.

(2) No textbook or instructional materials shall be listed for adoption unless they have been filed as provided in subdivision (d)(1). Textbooks and instructional materials listed for adoption shall be retained by the commissioner for the period of the adoption.

(3) In addition to the finished textbooks and instructional materials required to be filed with the secretary of the commission, publishers shall make all textbooks and instructional materials proposed for adoption available for inspection online by LEAs and the public. The online inspection shall allow inspection of both the textbook or instructional materials and all accompanying manuals, workbooks and other supplemental materials. The commission shall require that a publisher in its bid document agree to provide complete online copies of the textbooks or instructional materials bid during the review process by the advisory panels, but in no case shall the textbooks or instructional materials be available for less than ninety (90) days.

(4) The department shall develop a procedure by which members of the public may comment on the books proposed for adoption. Comments shall be accepted by regular mail, email or in another electronic format as determined by the department. Public comments received by the department shall be posted on the department's web site; provided, that any comment posted shall pertain only to the review of a textbook or any instructional materials being proposed for adoption. The department shall distribute the public comments on a textbook or any instructional materials to the advisory panelists prior to the making of their recommendations on the textbook or instructional materials and to the

commission before its approval of the textbook or instructional materials for inclusion on the textbook list.

SECTION 6. Tennessee Code Annotated, Section 49-6-2207(b)(2), is amended by deleting the subdivision in its entirety.

SECTION 7. Tennessee Code Annotated, Section 49-6-2207(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c)

(1) Local boards of education shall appoint review committees to review the textbooks and instructional materials proposed for adoption and shall make their adoption upon recommendations of such committees. These committees shall be set up by grade and subject matter fields and composed of teachers, or supervisors and teachers, and parents with children enrolled in the LEA at the time of appointment to a committee. The local board may also appoint experts in the grade level or subject matter field for which textbooks and instructional materials are to be reviewed. Experts may be college professors or credentialed subject matter specialists. The board shall determine the number of members of the committee based upon the relative size of the LEA.

(2) Teachers and supervisors who serve on a committee shall be teaching or supervising the respective grade or subject at the time of appointment. Committees shall be composed by grade or groups of grades arranged so that a committee may consider an entire series of books if it should so desire; provided, that in all cases, the teachers and supervisors appointed to the committees shall be licensed to teach in the state with endorsements in the subject matter or grade level for which textbooks or instructional are being reviewed. Teachers and supervisors

shall have three (3) or more years of experience as teachers or supervisors in the public schools.

(3) The members of the committee authorized in this section shall serve for the length of time that the adoption process for which they are appointed lasts.

SECTION 8. Tennessee Code Annotated, Section 49-6-2207(e), is amended by deleting the subsection in its entirety and substituting instead the following:

(e) The director of schools in the LEA adopting textbooks or instructional materials under this part shall serve as an ex officio member of all committees appointed under subsection (c). The director of schools shall record a list of all textbooks or instructional materials adopted by the local board of education. Immediately at the completion of the adoption process, the director shall forward a copy of the recorded adoption to the commissioner of education and shall post on the LEA's website the list of all books adopted.

SECTION 9. Tennessee Code Annotated, Section 49-6-2203(j), is amended by deleting the subsection in its entirety and substituting instead the following:

(j) The contractor shall file with the contract a good and sufficient bond with a surety company authorized to do business in this state in the sum to be determined by the commission but no less than two thousand dollars (\$2,000) nor more than ten thousand dollars (\$10,000) and conditioned upon the faithful performance of all conditions of the contract and this part.

SECTION 10. Tennessee Code Annotated, Section 49-6-2203(a), is amended by deleting the word "textbooks" wherever it appears and substituting instead the words "textbooks and instructional materials".

SECTION 11. Tennessee Code Annotated, Section 49-6-2203(e), is amended by deleting the word “textbooks” and substituting instead the words “textbooks and instructional materials”.

SECTION 12. Tennessee Code Annotated, Section 49-6-2203(g), is amended by deleting the word “textbooks” wherever it appears and substituting instead the words “textbooks and instructional materials”.

SECTION 13. Tennessee Code Annotated, Section 49-6-2204, is amended by deleting the word “textbooks” and substituting instead “textbooks and instructional materials”.

SECTION 14. Tennessee Code Annotated, Section 49-6-2205, is amended by deleting the word “textbooks” and substituting instead the words “textbooks and instructional materials” and by deleting the words “state textbook commission” and substituting instead the words “state textbook and instructional materials commission”.

SECTION 15. Tennessee Code Annotated, Section 49-6-2206, is amended by deleting the word “textbooks” wherever it appears and substituting instead the words “textbooks and instructional materials”.

SECTION 16. Tennessee Code Annotated, Section 49-6-2207(a)(1), is amended by deleting the word “textbooks” wherever it appears and substituting instead the words “textbooks and instructional materials”.

SECTION 17. Tennessee Code Annotated, Section 49-6-2207(a)(2), is amended by deleting the word “textbook” and substituting instead the words “textbook or instructional materials”.

SECTION 18. Tennessee Code Annotated, Section 49-6-2207(b)(1), is amended by deleting the word “textbooks” and substituting instead the words “textbooks and instructional materials”.

SECTION 19. Tennessee Code Annotated, Section 49-6-2207(f), is amended by deleting the word “textbooks” wherever it appears and substituting instead the words “textbooks and instructional materials”.

SECTION 20. Tennessee Code Annotated, Section 49-6-2208, is amended by deleting the word “textbooks” and substituting instead the words “textbooks and instructional materials” and by deleting the word “textbook” and substituting instead the words “textbooks and instructional materials”.

SECTION 21. Tennessee Code Annotated, Section 49-6-2211, is amended by deleting the word “textbook” wherever it appears and substituting instead the words “textbook or instructional materials”.

SECTION 22. Tennessee Code Annotated, Section 49-1-302(a)(4)(A), is amended by deleting the word “textbooks” and substituting instead the words “textbooks and instructional materials”.

SECTION 23. Tennessee Code Annotated, Section 49-1-608, is amended by deleting the word “textbooks” and substituting instead the words “textbook or instructional materials”.

SECTION 24. Tennessee Code Annotated, Section 49-3-310(1)(A), is amended by deleting the words “textbooks and kindergarten materials” wherever they appear and substituting instead the words “textbooks, instructional materials and kindergarten materials”.

SECTION 25. Tennessee Code Annotated, Section 49-3-310(1)(A), is further amended by deleting the words “furnish the textbooks” and substituting instead the words “furnish the textbooks and instructional materials”.

SECTION 26. Tennessee Code Annotated, Section 49-3-310(1)(A), is further amended by deleting the words “all required textbooks” and substituting instead the words “all required textbooks and instructional materials”.

SECTION 27. Tennessee Code Annotated, Section 49-3-310(1)(A), is amended by deleting the words “state textbook commission” and substituting instead the words “state textbook and instructional materials commission”.

SECTION 28. Tennessee Code Annotated, Section 49-3-310(1), is further amended by deleting in subdivisions (B) and (C) the word “textbook” wherever it appears and substituting instead the words “textbook and instructional materials” and by deleting the word “textbooks” and substituting instead the words “textbooks and instructional materials”.

SECTION 29. Tennessee Code Annotated, Section 49-6-1013, is amended by deleting the word “textbooks” wherever it appears and substituting instead the words “textbooks or instructional materials”.

SECTION 30. Tennessee Code Annotated, Section 49-6-1026, is further amended by deleting the word “textbook” wherever it appears and substituting instead the words “textbook and instructional materials” and by deleting the word “textbooks” and substituting instead the words “textbooks and instructional materials”.

SECTION 31. This act shall take effect January 1, 2015, the public welfare requiring it.